



Rep. Chapin Rose

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LRB097 05408 PJG 52493 a

1 AMENDMENT TO HOUSE BILL 89

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 89 by replacing the  
3 title with "AN ACT concerning procurement."; and

4 by replacing everything after the enacting clause with the  
5 following:

6 "Section 5. The Illinois Procurement Code is amended by  
7 changing Sections 1-15.107, 1-15.108, 20-25, 20-30, 20-43,  
8 20-85, 20-90, 20-95, 20-120, 20-160, 25-15, and 50-39 and by  
9 adding Section 20-100 as follows:

10 (30 ILCS 500/1-15.107)

11 Sec. 1-15.107. Subcontract. "Subcontract" means a contract  
12 between a person and a person who has or is seeking a contract  
13 subject to this Code, pursuant to which the subcontractor  
14 provides to the contractor ~~or another subcontractor~~ some or all  
15 of the goods, services, property, remuneration, or other forms

1 of consideration that are the subject of the primary contract  
2 and includes, among other things, subleases from a lessee of a  
3 State agency.

4 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793  
5 for the effective date of P.A. 96-795).)

6 (30 ILCS 500/1-15.108)

7 Sec. 1-15.108. Subcontractor. "Subcontractor" means a  
8 person or entity that enters into a contractual agreement with  
9 a total value in excess of the small purchase amount set forth  
10 in this Code ~~of \$25,000 or more~~ with a person or entity who has  
11 or is seeking a contract subject to this Code pursuant to which  
12 the person or entity provides some or all of the goods,  
13 services, property, remuneration, or other forms of  
14 consideration that are the subject of the primary State  
15 contract, including subleases from a lessee of a State  
16 contract.

17 (Source: P.A. 96-920, eff. 7-1-10.)

18 (30 ILCS 500/20-25)

19 Sec. 20-25. Sole source procurements.

20 (a) In accordance with standards set by rule, contracts may  
21 be awarded without use of the specified method of source  
22 selection when there is only one economically feasible source  
23 for the item. A State contract may not be awarded as a sole  
24 source procurement unless approved by the chief procurement

1 officer. If any person files an objection to the notice of a  
2 sole source procurement during the 14-day notice period  
3 required by subsection (c), the chief procurement officer shall  
4 provide following a public hearing at which the chief  
5 procurement officer, State purchasing officer, or State agency  
6 presents ~~and purchasing agency present~~ written justification  
7 for the procurement method. The Procurement Policy Board and  
8 the public may present testimony.

9 (b) This Section may not be used as a basis for amending a  
10 contract for professional or artistic services if the amendment  
11 would result in an increase in the amount paid under the  
12 contract of more than 5% of the initial award, or would extend  
13 the contract term beyond the time reasonably needed for a  
14 competitive procurement, not to exceed 2 months.

15 (c) Notice of intent to enter into a sole source contract  
16 shall be provided to the Procurement Policy Board and published  
17 in the online electronic Bulletin at least 14 days before the  
18 public hearing required in subsection (a). The notice shall  
19 include the sole source procurement justification form  
20 prescribed by the Board, a description of the item to be  
21 procured, the intended sole source contractor, and the date,  
22 time, and location of the public hearing. A copy of the notice  
23 and all documents provided at the hearing shall be included in  
24 the subsequent Procurement Bulletin.

25 (d) By August 1 each year, each chief procurement officer  
26 shall file a report with the General Assembly identifying each

1 contract the officer sought under the sole source procurement  
2 method and providing the justification given for seeking sole  
3 source as the procurement method for each of those contracts.

4 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793  
5 for the effective date of changes made by P.A. 96-795); 96-920,  
6 eff. 7-1-10.)

7 (30 ILCS 500/20-30)

8 Sec. 20-30. Emergency purchases.

9 (a) Conditions for use. In accordance with standards set by  
10 rule, a purchasing agency may make emergency procurements  
11 without competitive sealed bidding or prior notice when there  
12 exists a threat to public health or public safety, or when  
13 immediate expenditure is necessary for repairs to State  
14 property in order to protect against further loss of or damage  
15 to State property, to prevent or minimize serious disruption in  
16 critical State services that affect health, safety, or  
17 collection of substantial State revenues, or to ensure the  
18 integrity of State records; provided, however, that the term of  
19 the emergency purchase shall be limited to the time reasonably  
20 needed for a competitive procurement, not to exceed 90 days. A  
21 contract may be extended beyond 90 days if the chief  
22 procurement officer determines additional time is necessary  
23 and that the contract scope and duration are limited to the  
24 emergency. If any person files an objection to the notice of  
25 extension required by subsection (b), the chief procurement

1 officer shall provide a public hearing at which the chief  
2 procurement officer, State purchasing officer, or State agency  
3 presents written justification for the extension. The  
4 Procurement Policy Board and members ~~Prior to execution of the~~  
5 ~~extension, the chief procurement officer must hold a public~~  
6 ~~hearing and provide written justification for all emergency~~  
7 ~~contracts. Members~~ of the public may present testimony.  
8 Emergency procurements shall be made with as much competition  
9 as is practicable under the circumstances. A written  
10 description of the basis for the emergency and reasons for the  
11 selection of the particular contractor shall be included in the  
12 contract file.

13 (b) Notice. Notice of all emergency procurements shall be  
14 provided to the Procurement Policy Board and published in the  
15 online electronic Bulletin no later than 3 business days after  
16 the contract is awarded. Notice of intent to extend an  
17 emergency contract shall be provided to the Procurement Policy  
18 Board and published in the online electronic Bulletin at least  
19 14 days before the public hearing. Notice shall include at  
20 least a description of the need for the emergency purchase, the  
21 contractor, and if applicable, the date, time, and location of  
22 the public hearing. A copy of this notice and all documents  
23 provided at the hearing shall be included in the subsequent  
24 Procurement Bulletin. Before the next appropriate volume of the  
25 Illinois Procurement Bulletin, the purchasing agency shall  
26 publish in the Illinois Procurement Bulletin a copy of each

1 written description and reasons and the total cost of each  
2 emergency procurement made during the previous month. When only  
3 an estimate of the total cost is known at the time of  
4 publication, the estimate shall be identified as an estimate  
5 and published. When the actual total cost is determined, it  
6 shall also be published in like manner before the 10th day of  
7 the next succeeding month.

8 (c) Affidavits. A chief procurement officer making a  
9 procurement under this Section shall file affidavits with the  
10 Procurement Policy Board and the Auditor General within 10 days  
11 after the procurement setting forth the amount expended, the  
12 name of the contractor involved, and the conditions and  
13 circumstances requiring the emergency procurement. When only  
14 an estimate of the cost is available within 10 days after the  
15 procurement, the actual cost shall be reported immediately  
16 after it is determined. At the end of each fiscal quarter, the  
17 Auditor General shall file with the Legislative Audit  
18 Commission and the Governor a complete listing of all emergency  
19 procurements reported during that fiscal quarter. The  
20 Legislative Audit Commission shall review the emergency  
21 procurements so reported and, in its annual reports, advise the  
22 General Assembly of procurements that appear to constitute an  
23 abuse of this Section.

24 (d) Quick purchases. The chief procurement officer may  
25 promulgate rules extending the circumstances by which a  
26 purchasing agency may make purchases under this Section,

1 including but not limited to the procurement of items available  
2 at a discount for a limited period of time.

3 (e) The changes to this Section made by this amendatory Act  
4 of the 96th General Assembly apply to procurements executed on  
5 or after its effective date.

6 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793  
7 for the effective date of changes made by P.A. 96-795).)

8 (30 ILCS 500/20-43)

9 Sec. 20-43. Bidder or offeror authorized to do business in  
10 Illinois. In addition to meeting any other requirement of law  
11 or rule, a person (other than an individual acting as a sole  
12 proprietor) may qualify as a bidder or offeror under this Code  
13 only if the person is a legal entity ~~authorized to do business~~  
14 ~~in Illinois~~ prior to submitting the bid, offer, or proposal and  
15 is authorized to do business in Illinois prior to execution of  
16 the contract.

17 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793  
18 for the effective date of P.A. 96-795).)

19 (30 ILCS 500/20-85)

20 Sec. 20-85. Federal requirements. A State agency applying  
21 for or receiving federal-aid funds, grants, or loans shall have  
22 authority to adopt its procedures, rules, project statements,  
23 drawings, maps, surveys, plans, specifications, contract  
24 terms, estimates, bid forms, bond forms, and other documents or

1 practices to comply with the regulations, policies, and  
2 procedures of the designated authority, administration, or  
3 department of the United States, in order to receive or remain  
4 eligible for such federal-aid funds, grants, or loans.

5 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

6 (30 ILCS 500/20-90)

7 Sec. 20-90. Foreign country procurements. Procurements to  
8 meet the needs of State offices located in foreign countries or  
9 program activities that operate in foreign countries shall  
10 comply with the provisions of this Code to the extent  
11 practical. Procurements that must be made from foreign sole  
12 source vendors who have no offices in the United States shall  
13 comply with the provisions of this Code to the extent  
14 practical.

15 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

16 (30 ILCS 500/20-95)

17 Sec. 20-95. Donations. Nothing in this Code or in the rules  
18 promulgated under this Code shall prevent any State agency from  
19 complying with the terms and conditions of any grant, gift, or  
20 bequest that calls for the procurement of a particular good or  
21 service or the use of a particular contractor, provided that  
22 the grant, gift, or bequest provides majority funding for the  
23 contract. The provisions of this Code shall apply to the extent  
24 practical.

1 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

2 (30 ILCS 500/20-100 new)

3 Sec. 20-100. Expedited procurements. The chief procurement  
4 officer may establish by rule expedited processes to procure  
5 specialized supplies and services needed to meet research needs  
6 of State agencies, to ensure compliance with grant and grant  
7 application requirements, to contract for conference and  
8 commencement speakers, for athletic events and entertainment,  
9 and for membership dues and fees. Notice, vendor qualification,  
10 solicitation and contract terms, and other requirements of this  
11 Code shall apply to the extent practical.

12 (30 ILCS 500/20-120)

13 Sec. 20-120. Subcontractors.

14 (a) Any contract granted under this Code shall state  
15 whether the services of a subcontractor will or may be used.  
16 The contract shall include the names and addresses of all known  
17 subcontractors with subcontracts with an annual value of more  
18 than the small purchase amount authorized by this Code ~~\$25,000~~  
19 and the expected amount of money each will receive under the  
20 contract. For procurements subject to the authority of the  
21 chief procurement officer appointed pursuant to subsection  
22 (a)(2) of Section 10-20, the contract shall include only the  
23 names and addresses of all known subcontractors of the primary  
24 contractor with subcontracts with an annual value of more than

1 \$25,000. The contractor shall provide the chief procurement  
2 officer or State purchasing officer a copy of any subcontract  
3 with an annual value of more than \$25,000 so identified within  
4 20 days after the execution of the State contract or after  
5 execution of the subcontract, whichever is later. A  
6 subcontractor, or contractor on behalf of a subcontractor, may  
7 identify information that is deemed proprietary or  
8 confidential. If the chief procurement officer determines the  
9 information is not relevant to the primary contract, the chief  
10 procurement officer may excuse the inclusion of the  
11 information. If the chief procurement officer determines the  
12 information is proprietary or could harm the business interest  
13 of the subcontractor, the chief procurement officer may, in his  
14 or her discretion, redact the information. Redacted  
15 information shall not become part of the public record.

16 (b) If at any time during the term of a contract, a  
17 contractor adds or changes any subcontractors with an annual  
18 value that exceeds the small purchase amounts authorized by  
19 this Code, he or she shall promptly notify, in writing, the  
20 chief procurement officer, State purchasing officer, or their  
21 designee of the names and addresses and the expected amount of  
22 money each new or replaced subcontractor will receive. The  
23 contractor shall provide to the responsible chief procurement  
24 officer a copy of the subcontract within 20 days after the  
25 execution of the subcontract.

26 (c) In addition to any other requirements of this Code, a

1 subcontract subject to this Section must include all of the  
2 subcontractor's certifications required by Article 50 of the  
3 Code.

4 (d) This Section applies to procurements solicited on or  
5 after the effective date of this amendatory Act of the 96th  
6 General Assembly.

7 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793  
8 for the effective date of P.A. 96-795); 96-920, eff. 7-1-10.)

9 (30 ILCS 500/20-160)

10 Sec. 20-160. Business entities; certification;  
11 registration with the State Board of Elections.

12 (a) For purposes of this Section, the terms "business  
13 entity", "contract", "State contract", "contract with a State  
14 agency", "State agency", "affiliated entity", and "affiliated  
15 person" have the meanings ascribed to those terms in Section  
16 50-37.

17 (b) Every bid submitted to and every contract executed by  
18 the State on or after January 1, 2009 (the effective date of  
19 Public Act 95-971) shall contain (1) a certification by the  
20 bidder or contractor that either (i) the bidder or contractor  
21 is not required to register as a business entity with the State  
22 Board of Elections pursuant to this Section or (ii) the bidder  
23 or contractor has registered as a business entity with the  
24 State Board of Elections and acknowledges a continuing duty to  
25 update the registration and (2) a statement that the contract

1 is voidable under Section 50-60 for the bidder's or  
2 contractor's failure to comply with this Section.

3 (c) Within 30 days after the effective date of this  
4 amendatory Act of the 95th General Assembly, each business  
5 entity (i) whose aggregate bids and proposals on State  
6 contracts annually total more than \$50,000, (ii) whose  
7 aggregate bids and proposals on State contracts combined with  
8 the business entity's aggregate annual total value of State  
9 contracts exceed \$50,000, or (iii) whose contracts with State  
10 agencies, in the aggregate, annually total more than \$50,000  
11 shall register with the State Board of Elections in accordance  
12 with Section 9-35 of the Election Code. A business entity  
13 required to register under this subsection shall submit a copy  
14 of the certificate of registration to the applicable chief  
15 procurement officer within 90 days after the effective date of  
16 this amendatory Act of the 95th General Assembly. A business  
17 entity required to register under this subsection due to item  
18 (i) or (ii) has a continuing duty to ensure that the  
19 registration is accurate during the period beginning on the  
20 date of registration and ending on the day after the date the  
21 contract is awarded; any change in information must be reported  
22 to the State Board of Elections 5 business days following such  
23 change or no later than a day before the contract is awarded,  
24 whichever date is earlier. A business entity required to  
25 register under this subsection due to item (iii) has a  
26 continuing duty to ensure that the registration is accurate in

1 accordance with subsection ~~report any changes in information to~~  
2 ~~the State Board of Elections on the final day of January,~~  
3 ~~April, July, and October of each year, or the first business~~  
4 ~~day after such dates, if such dates do not fall on a business~~  
5 ~~day~~ (e).

6 (d) Any business entity, not required under subsection (c)  
7 to register within 30 days after the effective date of this  
8 amendatory Act of the 95th General Assembly, whose aggregate  
9 bids and proposals on State contracts annually total more than  
10 \$50,000, or whose aggregate bids and proposals on State  
11 contracts combined with the business entity's aggregate annual  
12 total value of State contracts exceed \$50,000, shall register  
13 with the State Board of Elections in accordance with Section  
14 9-35 of the Election Code prior to submitting to a State agency  
15 the bid or proposal whose value causes the business entity to  
16 fall within the monetary description of this subsection. A  
17 business entity required to register under this subsection has  
18 a continuing duty to ensure that the registration is accurate  
19 during the period beginning on the date of registration and  
20 ending on the day after the date the contract is awarded. Any  
21 change in information must be reported to the State Board of  
22 Elections within 5 business days following such change or no  
23 later than a day before the contract is awarded, whichever date  
24 is earlier.

25 (e) A business entity whose contracts with State agencies,  
26 in the aggregate, annually total more than \$50,000 must

1 maintain its registration under this Section and has a  
2 continuing duty to ensure that the registration is accurate for  
3 the duration of the term of office of the incumbent  
4 officeholder awarding the contracts or for a period of 2 years  
5 following the expiration or termination of the contracts,  
6 whichever is longer. A business entity, required to register  
7 under this subsection, has a continuing duty to report any  
8 changes on a quarterly basis to the State Board of Elections  
9 within 10 business days following the last day of January,  
10 April, July, and October of each year. Any update pursuant to  
11 this paragraph that is received beyond that date is presumed  
12 late and the civil penalty authorized by subsection (e) of  
13 Section 9-35 of the Election Code (10 ILCS 5/9-35) may be  
14 assessed.

15 Also, ~~if on the final day of January, April, July, and~~  
16 ~~October of each year, or the first business day after such~~  
17 ~~dates, if such dates do not fall on a business day. If a~~  
18 business entity required to register under this subsection has  
19 a pending bid or proposal, any change in information shall be  
20 reported to the State Board of Elections within 5 business days  
21 following such change or no later than a day before the  
22 contract is awarded, whichever date is earlier.

23 (f) A business entity's continuing duty under this Section  
24 to ensure the accuracy of its registration includes the  
25 requirement that the business entity notify the State Board of  
26 Elections of any change in information, including but not

1 limited to changes of affiliated entities or affiliated  
2 persons.

3 ~~(g) A copy of a certificate of registration must accompany~~  
4 ~~any bid or proposal for a contract with a State agency by a~~  
5 ~~business entity required to register under this Section. A~~  
6 chief procurement officer shall not accept a bid or proposal  
7 unless the vendor has made and complied with the certification  
8 required in subsection (b) the certificate is submitted to the  
9 agency with the bid or proposal.

10 (h) A registration, and any changes to a registration, must  
11 include the business entity's verification of accuracy and  
12 subjects the business entity to the penalties of the laws of  
13 this State for perjury.

14 In addition to any penalty under Section 9-35 of the  
15 Election Code, intentional, willful, or material failure to  
16 disclose information required for registration shall render  
17 the contract, bid, proposal, or other procurement relationship  
18 voidable by the chief procurement officer if he or she deems it  
19 to be in the best interest of the State of Illinois.

20 (i) This Section applies to all methods ~~regardless of the~~  
21 ~~method~~ of source selection used in awarding the contract,  
22 except that the chief procurement officer may waive compliance  
23 for sole sources and emergency contracts if necessary to secure  
24 the contract.

25 (Source: P.A. 95-971, eff. 1-1-09; 96-795, eff. 7-1-10 (see  
26 Section 5 of P.A. 96-793 for the effective date of changes made

1 by P.A. 96-795); 96-848, eff. 1-1-10; revised 9-23-10.)

2 (30 ILCS 500/25-15)

3 Sec. 25-15. Method of source selection.

4 (a) Competitive sealed bidding. Except as provided in  
5 subsection (b) and Sections 20-20, 20-25, and 20-30, all State  
6 contracts for supplies and services shall be awarded by  
7 competitive sealed bidding in accordance with Section 20-10.

8 (b) Other methods. The chief procurement officer may  
9 establish by rule (i) categories of purchases, including  
10 non-governmental joint purchases, that may be made without  
11 competitive sealed bidding and (ii) the most competitive  
12 alternate method of source selection that shall be used for  
13 each category of purchase. When determined necessary by the  
14 State agency and approved by the chief procurement officer,  
15 vendor qualification and contract terms otherwise required may  
16 be modified to ensure that the needs of the State agency can be  
17 met. The determination and approval must be published in the  
18 Illinois Procurement Bulletin.

19 (Source: P.A. 90-572, eff. date - See Sec. 99-5.)

20 (30 ILCS 500/50-39)

21 Sec. 50-39. Procurement communications reporting  
22 requirement.

23 (a) Any written or oral communication received by a State  
24 employee that imparts or requests material information or makes

1 a material argument regarding potential action concerning a  
2 procurement matter, including, but not limited to, an  
3 application, a contract, or a project, shall be reported to the  
4 Procurement Policy Board. These communications do not include  
5 the following: (i) statements by a person publicly made in a  
6 public forum; (ii) statements regarding matters of procedure  
7 and practice, such as format, the number of copies required,  
8 the manner of filing, and the status of a matter; ~~and~~ (iii)  
9 statements made by a State employee of the agency to the agency  
10 head or other employees of that agency or to the employees of  
11 the Executive Ethics Commission; (iv) statements made by an  
12 employee of a State university concerning cooperative  
13 procurement activities among or between public universities;  
14 and (v) communications regarding transactions less than the  
15 small purchase amount set forth in this Code. The provisions of  
16 this Section shall not apply to communications regarding the  
17 administration and implementation of an existing contract,  
18 except communications regarding change orders or the renewal or  
19 extension of a contract.

20 (b) The report required by subsection (a) shall be  
21 submitted monthly and include at least the following: (i) the  
22 date and time of each communication; (ii) the identity of each  
23 person from whom the written or oral communication was  
24 received, the individual or entity represented by that person,  
25 and any action the person requested or recommended; (iii) the  
26 identity and job title of the person to whom each communication

1 was made; (iv) if a response is made, the identity and job  
2 title of the person making each response; (v) a detailed  
3 summary of the points made by each person involved in the  
4 communication; (vi) the duration of the communication; (vii)  
5 the location or locations of all persons involved in the  
6 communication and, if the communication occurred by telephone,  
7 the telephone numbers for the callers and recipients of the  
8 communication; and (viii) any other pertinent information.

9 (c) Additionally, when an oral communication made by a  
10 person required to register under the Lobbyist Registration Act  
11 is received by a State employee that is covered under this  
12 Section, all individuals who initiate or participate in the  
13 oral communication shall submit a written report to that State  
14 employee that memorializes the communication and includes, but  
15 is not limited to, the items listed in subsection (b).

16 (d) The Procurement Policy Board shall make each report  
17 submitted pursuant to this Section available on its website  
18 within 7 days after its receipt of the report. The Procurement  
19 Policy Board may promulgate rules to ensure compliance with  
20 this Section.

21 (e) The reporting requirements shall also be conveyed  
22 through ethics training under the State ~~Employees and~~ Officials  
23 and Employees Ethics Act. An employee who knowingly and  
24 intentionally violates this Section shall be subject to  
25 suspension or discharge. The Executive Ethics Commission shall  
26 promulgate rules, including emergency rules, to implement this

1 Section.

2 (f) This Section becomes operative on January 1, 2011.

3 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793  
4 for the effective date of changes made by P.A. 96-795); 96-920,  
5 eff. 7-1-10; revised 9-27-10.)".